

**BEFORE THE STATE BOARD OF REGISTRATION
FOR THE HEALING ARTS**

STATE BOARD OF REGISTRATION FOR
THE HEALING ARTS,

Board,

vs.

EDWARD P. REH, JR., M.D.,

Licensee.

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) Case No.1999-000344
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SETTLEMENT AGREEMENT

Edward P. Reh, M.D., ("Licensee") and the State Board of Registration for the Healing Arts (the "Board") enter into this Agreement for the purpose of resolving the question of whether Dr. Reh's license as a physician or surgeon will be subject to discipline. Licensee and the Board jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to §621.045, RSMo Supp. 1998.

1. Licensee acknowledges that he understands the various rights and privileges afforded by law, including the right to a hearing of the charges against Licensee; the right to appear and be represented by legal counsel; the right to have all charges against Licensee proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Licensee; the right to present evidence on Licensee's own behalf; the right to a decision based upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against Licensee; and subsequently, the right to a disciplinary hearing before the Board at which time evidence may be presented in mitigation of discipline. Having been advised of these rights provided Licensee by operation of

law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this Agreement and agrees to abide by the terms of this document as they pertain to Licensee.

2. Licensee acknowledges that he may, at the time this Agreement is effective or within fifteen days thereafter, submit this Agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for discipline of Licensee's license.

3. Licensee acknowledges that he has been informed of his right to consult legal counsel in this matter.

4. Licensee hereby waives and release the Board, its members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including any claims pursuant to §536-087, RSMo 1994, or any claim arising under 42 U.S.C. 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case or this Agreement, or from the negotiation or execution of this Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this Agreement in that it survives in perpetuity even in the event that any court of law deems this Agreement or any portion thereof, void or unenforceable.

5. The parties stipulate and agree that the disciplinary order agreed to by the Board and Licensee in Part II herein is based only on the Agreement set out in Part I herein. Licensee understands that the Board may take further disciplinary action against Licensee based on facts or conduct not specifically mentioned in this document that are either now known to the Board or may be discovered.

6. Licensee understands and agrees that the Missouri State Board of Registration for the Healing Arts will maintain this Agreement as an open record of the Board as required by Chapters 334, 610, 620, and 621, RSMo, as amended.

I.

Based upon the foregoing, Board and Licensee herein jointly stipulate to the following:

JOINT PROPOSED FINDINGS OF FACT

1. The State Board of Registration for the Healing Arts (the "Board") is an agency of the State of Missouri created and established pursuant to §334.12, for the purpose of executing and enforcing the provisions of Chapter 334, RSMo.

2. Edward P. Reh, Jr., M.D. ("Licensee") is licensed by the Board as a physician and surgeon, License Number R9480, which license was first issued in 1979. Licensee's certificate of registration is current, and was current and active at all times mentioned herein.

3. Beginning on or about October 29, 1993, patient J.F. was provided care and treatment by Licensee at his private practice office.

4. Licensee was the primary care physician for patient J.F.

5. During the first visit on October 29, 1993, Licensee performed a general physical examination and obtained a history from patient J.F.

6. Licensee did not perform a pelvic exam or a breast exam and did not obtain a mammogram for patient J.F. because he understood that patient J.F. had seen a gynecologist approximately 18 months before the October 29, 1993 appointment.

7. Over the next several years until January 1999, patient J.F. would be treated by Licensee in his office on a number of occasions.

8. During each visit, Licensee did not perform a pelvic exam, a breast exam nor

order a mammogram or obtain a pap smear for patient J.F.

9. For each visit, Licensee did not document whether or not he had asked patient J.F. if she had been seen by a gynecologist or had a pelvic exam, pap smear, breast exam or mammogram in the past year.

10. On or about January 1999, patient J.F. saw Licensee because of problems with urinary frequency and urgency.

11. Licensee performed a blood test and a urine test. The blood test showed alkaline phosphatase of 310 mg.

12. Licensee initially believed that patient J.F. suffered from a urinary tract infection so he placed patient J.F. on Cipro which she took until on or about March 4, 1999.

13. On or about March 4, 1999, patient J.F. returned to Licensee with complaints that the problems of urinary frequency and urgency were still present.

14. On or about March 4, 1999, Licensee referred patient J.F. to a urologist for treatment of the urinary problem.

15. In June 1999, Licensee performed another blood test which showed a decrease in the level of alkaline phosphatase to 248 mg.

16. Despite the results of the blood test which showed alkaline phosphatase of 310 mg., Licensee did not pursue further evaluation or other tests, such as fractionation of the alkaline phosphatase, a bone scan, a CT or ultrasound of the liver or an ultrasound of the uterus and pelvis, to determine what accounted for the elevated phosphatase level.

17. Patient J.F. was seen by two urologists and the second urologist referred the patient to a gynecologist based on the presence of foreign cells in her urine as a result of a urine screen he had done for patient J.F.

18. In August 1999, patient J.F. was seen by a gynecologist who performed a pelvic exam and obtained a pap smear. The results of the exam indicated that her cervix was hard and rigid. The pap smear showed inflammatory cells which were abnormal but not malignant. A breast exam was performed but no possible diagnosis of cancer was noted. The gynecologist referred patient J.F. to an oncologist.

19. Patient J.F. was seen by an oncologist who repeated the pap smear and pelvic exam and also performed a breast exam. From the breast exam, the oncologist noted there were hard lumps in each breast.

20. The oncologist diagnosed patient J.F. with bilateral breast cancer and possible cervical cancer. A final diagnosis was made of signet ring adenocarcinoma involving metastatic breast cancer to the cervix, a rare form of cancer.

21. Licensee's conduct in failing to perform annual pelvic exams, breast exams and ordering pap smears and mammograms, or in the alternative, failing to ask the patient if she had received said tests in the past year, is conduct below the standard of care.

22. Licensee's conduct in failing to further evaluate the results of the January 1999 test showing an elevated phosphatase level in patient J.F. in order to discover the cause of the elevated levels is conduct below the standard of care.

23. Licensee's conduct, as described above, is conduct which was or might have been dangerous or harmful to the physical health of the patient J.F.

24. Licensee's failure to utilize his professional abilities, given patient J.F.'s presentation and test results, constitutes conduct which might be harmful or dangerous to the mental or physical health of a patient in the performance of the function and duties of a physician.

JOINT PROPOSED CONCLUSIONS OF LAW

1. Cause exists for the Board to take disciplinary action against Licensee's license pursuant to §334.100.2 (5), RSMo Supp. 1998, which reads:

2. The Board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate or registration or authority, permit or license for any one or any combination of the following causes:

(5) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient . . .

2. Licensee's conduct, as established by the foregoing facts, falls within the intendment of §334.100.2 (5) RSMo Supp. 1998.

3. Cause exists for the Board to take disciplinary action against Licensee's license under §334.100.2 (5) RSMo Supp. 1998.

II.

JOINT PROPOSED DISCIPLINARY ORDER

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the State Board of Registration for the Healing Arts in this matter under the authority of §621.110, RSMo 1994.

A. Effective the date the Board enters into the Agreement:

1. The medical license, No. R9480, issued to Reh is hereby PUBLICLY REPRIMANDED.

2. In consideration of the foregoing, the parties consent to the termination of any further proceedings based upon the facts set forth herein.

LICENSEE

BOARD

Edward P. Reh M.D. 5/25/01
EDWARD P. REH, M.D. Date

Tina Steinman 6-1-01
TINA STEINMAN Date
Executive Director

ARMSTRONG TEASDALE, LLP

JEREMIAH W. (JAY) NIXON
Attorney General

Sherry L. Doctorian 5-29-01
SHERRY L. DOCTORIAN Date
Attorney at Law
Missouri Bar No. 34636

James O. Ertle 5/30/01
JAMES O. ERTLE Date
Assistant Attorney General
Missouri Bar No. 49166

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(573) 751-5660 Facsimile

Attorneys for Licensee

Attorneys for Board

EFFECTIVE THIS 1 DAY OF June, 2001.